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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,653	12/20/2001	James M. Vignoles	NA11P048/01.183.01	2731
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Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			EXAMINER PYZOCHA, MICHAEL J	
			ART UNIT	PAPER NUMBER
			2137	
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			08/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/028,653

Applicant(s)

VIGNOLES ET AL.

Examiner

Michael Pyzocha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,7,12,15,16,18,23 and 28-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7,12,15,16,18,23 and 28-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1, 4, 5, 7, 12, 15, 16, 18, 23, 28-39 are pending.
2. Amendment filed 02/22/2007 has been received and considered.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Nowhere in the specification is a "tangible computer readable medium" embodying a computer program product described and therefore the specification fails to provide antecedent basis for this claimed subject matter.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The claim(s) contains subject matter which was not described in

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the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Nowhere in the specification is "A computer program product embodied on a tangible computer readable medium" described and therefore the claims fail to conform to the written description requirement.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 4, 5, 7, 12, 15, 16, 18, 23, 29, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over ConSeal PC FIREWALL Technical Summary (hereinafter ConSeal) in view of Hari et al (Detecting and resolving packet filter conflicts) and in view of Coss et al (US 6098172) in view of Chan et al (US 6910028) and further in view of Jacobson (US 6735701).

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As per claims 1, 12, 23, and 29, ConSeal discloses identifying a set of policies, each policy having a condition associated therewith; determining whether the conditions are met; and activating the policies whose associated conditions are determined to be met (see pages 1-2) wherein the activation of the policies includes adding the policies to a set of a plurality of active policies after a user confirmation, and executing security actions associated with the active policies if associated limits are met (see pages 1-2).

ConSeal fails to disclose the conditions represent different policies, which are based on priority and determining and resolving any conflicts and the conditions are based on a time factor, which is at least one of a timeframe, a predetermined time period, and a time limit, and the conditions are based on a source of the policies and a severity of security actions associated with the policies.

However, Hari et al teaches such policy priorities and conflict resolution (see page 1204 section II) and Coss et al teaches the use of a time factor (see column 2 lines 29-41) Chan et al teaches the conditions include a source of the policy (see column 7 line 60 through column 8 line 33) and Jacobson teaches the conditions include a severity of security actions associated with the policies (see column 18 lines 15-30).

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At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Hari et al's priorities, conflict resolution and the time factors of Coss et al, the source identification of Chan et al and the severity classification of Jacobson in the firewall system of ConSeal.

Motivation to do so would have been to avoid matching multiple filters with conflicting actions (see Hari et al page 1204 section II) and to allow a given rule set to be modified based on events happening in the network without requiring that the entire rule set be reloaded (see Coss et al column 2 lines 29-41) it enables deep semantic guarantees including consistency (see Chen et al column 7 line 60 through column 8 line 33) and to allow for different policies to occur based compliance and severity (see Jacobson column 18 lines 15-49).

As per claims 4-5 and 15-16, the modified ConSeal, Hari et al, Coss et al, and Chan et al system discloses updating includes receiving another inactive policy, determining whether the user accepts the inactive policy, and adding the inactive policy to the set if the user accepts the inactive policy (see ConSeal page 2).

As per claims 7, 18, and 34-37, the modified ConSeal, Hari et al, Coss et al, and Chan et al system discloses determining whether the conditions associated with the active policies are

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still met, and de-activating the active policies if the associated conditions are not met and reusing or discarding the de-activated policy (see bottom of page 1 to the top of page 2).

As per claim 33, the modified ConSeal, Hari et al, Coss et al, and Chan et al system discloses the identifying, determining and activating are controlled locally (see ConSeal page 1).

8. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al, Coss et al, and Chan et al system as applied to claim 1 above, and further in view of Horvitz et al (US 2003021621).

As per claim 28, the modified ConSeal, Hari et al, Coss et al, and Chan et al system fails to disclose the conditions represent an urgency associated with an issue causing the policy to be activated.

However, Horvitz et al teaches such a priority based on urgency (see paragraph 117).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Brock et al's teaching of urgency based priority in the modified ConSeal, Hari et al, Coss et al, and Chan et al system.

Motivation to do so would have been to facilitate efficient processing of electronic information while mitigating the costs of manual interventions associated therewith (see paragraph 6).

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9. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al, Coss et al, and Chan et al system as applied to claim 1 above, and further in view of Cisco (IPSec User Guide for the Cisco Secure PIX Firewall Version 5.2).

As per claims 30-32, the modified ConSeal, Hari et al, Coss et al, and Chan et al system fails to disclose three policies with different priorities having different valid time periods.

However Cisco teaches such policies (see "Enabling and Configuring IKE" pages 6-1 and 6-2).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the policies of Cisco in the modified ConSeal, Hari et al, Coss et al, and Chan et al system.

Motivation to do so would have been to allow the firewall to use Internet Key Exchange (see top of page 6-1).

10. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al, Coss et al, and Chan et al system as applied to claim 1 above, and further in view of Gorsuch (US 6985746).

As per claim 38, the modified ConSeal, Hari et al, Coss et al, and Chan et al system fails to explicitly disclose the

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conditions are based on the detection of a predetermined amount of files of a certain type.

However, Gorsuch teaches filtering data based on the detection of a predetermined number of files of a certain type (see column 3 lines 32-37).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for the condition of the modified ConSeal, Hari et al, Coss et al, and Chan et al system to be based on the detection of a predetermined amount of files of a certain type.

Motivation to do so would have been to block potentially harmful files from being transmitted or to save bandwidth.

11. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al, Coss et al, and Chan et al system as applied to claim 1 above, and further in view of Yanovsky (US 7010807).

As per claim 39, the modified ConSeal, Hari et al, Coss et al, and Chan et al system fails to explicitly disclose the conditions are based on whether a virus signature update is current.

However, Yanovsky teaches blocking a system access when the anti-virus software is out of date (see column 2 lines 5-11).

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At the time of the invention it would have been obvious to a person of ordinary skill in the art for the conditions of the modified ConSeal, Hari et al, Coss et al, and Chan et al system to be based on whether a virus signature update is current.

Motivation to do so would have been protect the system from potentially infected machines.

Response to Arguments

Applicant's arguments filed 06/26/2007 have been fully considered but they are not persuasive. Applicant argues that the specification provides support for a "tangible computer readable medium"; the combination lacks motivation; Hari fails to teach that the first policy and second policy are activated under different priority-related conditions; Chan fails to teach the conditions are based on a source of the policies; Jacobson fails to teach the conditions are based on a severity of security actions associated with the policies; Horvitz fails to teach the conditions are based on an urgency associated with an issue causing the policy to be activated; ConSeal fails to teach activating the policy when a user confirms; and that ConSeal fails to teach the limitations of claims 34 and 37.

With respect to Applicant's argument that the specification provides support for a "tangible computer readable medium" by

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citing page 8 line 1-2, this merely discloses that the computer system has memory that is tangible. Therefore the rejections of claims 1, 23, 28, and 29 have been withdrawn. However, the rejection of claim 12 remains because the specification provides no support for the computer program product being provided on a tangible computer readable medium.

With respect to Applicant's argument that the combination of ConSeal and Hari lacks motivation, as cited above Hari teaches motivation as avoiding matching multiple filters with conflicting actions. Applicant further contends that Hari does not teach the abovementioned motivation, however, the methods provided by Hari are all conflict resolution schemes. Therefore, the methods of Hari prevent multiple matched filters with conflicting actions from being used. Applicant further states that the Hari reference teaches a different (and improved) method for conflict resolution that does not use filter prioritization. While this may be true, the portions relied upon are the filter prioritization methods taught on page 1204. Applicant also notes that Hari states that there are drawbacks to the cited prioritization methods, and therefore teaches away. However, Hari teaches the benefits of the methods, such as resolving conflicts and that they are simple to implement therefore Hari fulfills the requirement for some

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teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

With respect to Applicant's argument that Hari fails to teach activating policies under different priority-related conditions, as stated previously Hari discloses the use of priorities to resolve conflicts. To extend the example, as would be known to one of ordinary skill in the art, before the descriptions of a), b), and c) on page 1204, to three filters $F_1 = (128.112.*,*)$ with $A(F_1) = \{100 \text{ Mbps bandwidth}\}$, $F_2 = (*, 128.122.*)$ with $A(F_2) = \{1 \text{ Mbps bandwidth}\}$ and if we add $F_3 = (*,*)$ with $A(F_3) = \{500 \text{ Kbps bandwidth}\}$ with F_1 having the highest priority and F_3 having the lowest, this third filter is well within the scope of Hori as Hori discloses the use of any number of filters with wildcards (*). So whenever traffic comes to the filter from the network (128.112.*) destined for the network (128.122.*) there is a conflict between all three filters, since F_1 has the highest priority it will be chosen. Therefore, F_1 is chosen under a first priority-related condition. On the other hand, when traffic comes to the filter from anywhere but (128.112.*) and is destined to (128.122.*) there is

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a conflict between F_2 and F_3 and since F_2 has a higher priority it will be chosen. Therefore F_2 is chosen under and second priority-related condition. So Hari teaches activating policies under different priority-related conditions.

With respect to Applicant's argument that Chan fails to teach the conditions are based on a source of the policies Chen specifically teaches that the priority is based on the authority level of the originating source application. Therefore, the policies have a priority and this priority is based on the source application. Since each policy in the modified system is activated based on a condition that is based on a priority (as taught by Hari in the modified system) and Chen teaches that policies each have a priority based on its source. Therefore the modified system teaches that the conditions **are based on a** source of the policies.

With respect to Applicant's argument that Jacobson fails to teach the conditions are based on a severity of security actions associated with the policies Jacobson teaches assigning a value based on a policy violation and that "Each policy has several actions ranging from lenient to restrictive" (see column 18 lines 38-39). Furthermore, the policy effectiveness module chooses the appropriate action based on the compliance value (see column 18 lines 15-30). In other words, the specific

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action (defined by a policy and with different severities) is chosen based on the severity of the compliance violation.

Therefore, the modified system teaches the conditions are based on a severity of security actions associated with the policies.

With respect to Applicant's argument that Horvitz fails to teach the conditions are based on an urgency associated with an issue causing the policy to be activated, Horvitz teaches the well known idea of classification of messages, which influences a policy, based on urgency. Therefore, one of ordinary skill in the art would recognize the use of urgency to classify other information (conditions to activate a policy as in the modified system above) in a policy driven system to obtain predictable results.

With respect to Applicant's argument that ConSeal fails to disclose determining whether a user confirms the activation of policies and activating based on the confirmation, when ConSeal is in the Checked Learning Mode and a packet arrives with no policy ConSeal creates at least two inactive policies (e.g. allow or block rules) and presents the user with these options. The user must then select one of these options therefore confirming the activation of the policy. Applicant next argues that ConSeal teaches away from this because it manages the environment specific rule sets behind the scenes, however, these

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rules are constructed by the user (see bottom of page 2) via one of the learning modes described on page 2; including Checked Learning Mode. Therefore ConSeal does not teach away from the claimed limitations.

With respect to Applicant's argument that ConSeal fails to teach the limitations of claims 34 and 37 the rule sets (active policies) are protected by a password and therefore dictate that only a user with the password can deactivate (i.e. edit or delete) the rule set. Therefore ConSeal teaches associated conditions of the policies dictate the manner in which the active policies are to be deactivated. Furthermore, when this password is used to change (i.e. edit or delete) a rule the previous rule is no longer in use (i.e. discarded) therefore reading on the claim language of claim 37.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

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statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

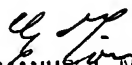
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP


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